IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO: 3673 of 1995

Between:

Smt. P.Jayalakshmi, W/o. P.Narayana, Hindu,
R/o.H.No.1-4-474, Kummara Thopu,
Tirupati, Chittoor District.

..... PETITIONER

AND

1 The Commissioner, Tirupati Municipality,
Tirupathi, Chittoor District.
2 The Superintendent, Children's Jail,
Tirupathi, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction, more in the nature of Writ of Mandamus, declaring the action of the respondents, in threatening to remove or demolish the construction already made by the petitioner in T.S.No.951 under Patta T.S. No.167/90, dated 8-5-1981 issued by the then Tahsildar, Chandragiri, as wholly arbitrary, highly illegal, unconstitutional, and unjust, being violative of Arts. 14, 21, and 300-A of the Constitution of India, and contrary to the Board Standing Orders and Assignment Rules, and consequently direct the respondents, not to interfere with the possession and enjoyment of the petitioner relating to T.S.No.951 of Tirupathi village.

Counsel for the Petitioner: MR.D.RAMESH

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

ORDER:

This writ petition is filed seeking writ of Mandamus to declare the action of the respondents in taking steps for removal of the constructions made in T.S.No.951 of Tirupati Town, as arbitrary and illegal.

As stated in the affidavit, filed in support of the writ petition, it is the case of the petitioner that he was in longstanding possession and enjoyment of land in T.S.No.951 of Tirupati Town to an extent of 26 x 20 feet and for the said survey number, patta was granted to him by the then Tahsildar, Chandragiri. It is the further case of the petitioner that initially he raised a thatched shed on the said land and when he was taking steps to make regular constructions, the respondents tried to interfere and hence, he filed this writ petition.

The second respondent – Superintendent, Government Observation Home for Boys, Juvenile Welfare Department, Tirupati, has filed a counter-affidavit stating that no land was allotted to the petitioner in T.S.No.951 of Tirupati Town. Further, it is stated that as the petitioner was trying to raise illegal constructions in the said land without obtaining any permission as contemplated under the provisions of the A.P. Municipalities Act (for short 'the Act'), they have lodged a complaint with the Tirupati Police Station. Later, the Tirupati Municipality served a notice dated 18.01.1994 to stop the construction, as the same was made without obtaining any prior

permission form the Municipality under Section-211 of the Act.

It is apt to note here that though it is stated in the counter-affidavit that the petitioner was not allotted any patta for the land in question, but the petitioner has produced a copy of the patta issued by the then Tahsildar, Chandragiri, in the year 1981, assigning an extent of 26 x 20 feet of land in T.S.No.951 of Tirupati Town. So far as this factual aspect is concerned, it is for the competent authority to enquire into the matter. However, as far as this writ petition is concerned, admittedly, the petitioner has not obtained any permission so as to proceed with the constructions in the land in question. In that view of the matter, the petitioner cannot be permitted to make any constructions without obtaining any permission from the competent authority. However, it is made clear that even if any constructions are already made unauthorisedly in the land in question, the respondents shall not remove the same without following due procedure as contemplated under the provisions of the Act.

Subject to the above directions, the writ petition is disposed of. No order as to costs.

_____ R.SUBHASH REDDY, J

17.01.2005

DR

To

1 The Commissioner, Tirupati Municipality,
Tirupathi, Chittoor District.
2 The Superintendent, Children's Jail,
Tirupathi, Chittoor District.

3 2 CCs to Government Pleader for Revenue, High Court

Buildings, Hyderabad. (OUT)

4 2 CD copies.